

FIREARMS: JUST ANOTHER TOOL OF THE MODERN PROBATION AND PAROLE OFFICER?

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No distinction is made in this paper between juvenile and adult offenders, nor between probation and parole, because while the decisions may differ, the decision points are the same. There are both juvenile and adult departments that have armed officers, and most departments are concerned with the appropriate response to staff safety issues.

Providing probation and parole officers with safety equipment does not change the department's mission--especially that part of the mission which speaks to rehabilitation--the overall policy of the department. It does call for additional policy, procedures, and training. The department's existing policy dictates how the mission is accomplished and determines to what degree safety equipment and training are needed.

Although most officers in my department are armed, I do not wish to be known as an advocate for firearms. I wish we did not need to concern ourselves about staff safety. How nice it would be if our streets and byways were safe, and we could go about our community corrections business with no worries beyond traffic safety. Unfortunately, in my county and in all the cities and states I have visited, safety is necessarily an important concern of both officers and management.

Are Firearms the Answer?

I am an unashamed advocate for officer safety. To be otherwise would be irresponsible. There are a number of questions surrounding the arming of officers: Do firearms make officers safer? Are officers automatically and magically safe when armed? What are the management issues to be considered in deciding whether or not to arm officers?

No other current topic is surrounded by so much emotion, both in support of and opposed to arming officers. A discussion during a workshop at the APPA conference in July 1996 led to disagreement and shouting among intelligent, educated, professional people. The subject is emotional in part because intelligent, educated, professional people understand that arming officers is not a simple decision and not easily accomplished once the decision is made.

Differing views of administrators and line staff. The subject is also emotional because of preconceived beliefs and management concerns that are often more seriously considered by administration than by line staff. Line staff tend to see the issue as black or white, right or wrong, while administrators are more inclined to recognize a huge gray area fraught with critical decision points.

Officers tend to see arms as the means to protect their lives or the lives of others—or at least as a means to diminish the likelihood that they will be attacked. They believe that bad people are less likely to attack someone who has the means to respond with force, especially deadly force. They ask, “Why does the administration not see the issue clearly?”

Administrators see a multitude of concerns surrounding the exposure of the department to liability issues and potential lawsuits. Fears include careless discharges of firearms that could maim or kill officers, other staff, or innocent bystanders; loss of a weapon to someone who would use it against the officer, and the inappropriate use of deadly force. The list of concerns can become quite long—prompting the question, “Why don’t line staff recognize these issues?”

In truth, both sides are right. Once the emotions are calmed, it is clear that arming officers is neither the salvation nor the destruction of probation services. Firearms should be seen as only one of the numerous tools available to promote staff safety.

Some administrators seem to worry more about the issue of arming than about the hundreds of predatory pedophiles on their caseloads. Their solution is to eliminate home inspections and searches because of concern for officer safety. But it is difficult to reconcile this lack of supervision with our responsibility to the community.

Proliferation of firearms. Add to this mix the confusion, debate, and misinformation promulgated at the state and national level regarding gun control, and it is no wonder that emotions about guns run high. The thoughtful observer will note that, while gun control debates have raged during the past 5 years, many states have adopted statutes allowing citizens to secure permits to carry firearms. There are more guns on our streets than ever before, even in the days of the “Wild West.”

Research indicates diminished violent crime in those states that have authorized citizens to carry concealed weapons. The advocates say, “We knew it would work! Give the good citizens guns and the criminals will leave them alone.” Handgun opponents argue that the crime rate would have gone down in any case. Is it any wonder that, in the midst of all this, officers who work the streets want to be armed? Is it surprising that the response of management often reflects political positions and philosophy?

Decision Points: To Arm or Not To Arm

A reasoned response must move beyond the emotions and politics of the moment and deal with the realities of danger. When we put the issues to be considered and the decision points in proper order, the specific questions and the appropriate responses become clearer.

1. What is the *statutory purpose* of the agency? In many states, statutes define the legislative intent for the department—its purpose. The wise administrator will not create vision and mission statements without carefully examining and considering the legislative intent.

2. What *statutory authority* is given the agency? Law enforcement authority, either general or limited, should be among the first issues explored. This can end further consideration of the possibility of arming officers, unless the department has law enforcement authority (sometimes expressed as peace officer authority) or

specific authority for firearms. A lack of statutory authority should not end the consideration of other tactics to enhance officer safety, however.

Lack of clarity in statutory authority is not unusual; in some states, there is no specific statement of the department's authority. However, the wise administrator will not exceed statutory authority. The initial approach should be "not given/not taken." Further examination may reveal authority for activities normally reserved to peace officers, such as the authority to search with or without a warrant, arrest authority with or without a warrant, or authority to transport probationers or parolees who are in custody.

Administrators who err on either side of the authority question may find themselves in court with neither alibi nor defense. One should not exercise authority not given, but equally risky is the effort to limit, through agency policy, the exercise of legislatively granted or directed authority. An example is a policy decision not to allow officers to search, make arrests, or conduct other legitimate activities even though these activities are intended and authorized by the legislature.

If law enforcement or peace officer status is granted by the legislature, or if the statute authorizes firearms, there is no need for debate. Where firearms are authorized, what rational administrator would allow officers to do searches, investigate new criminal offenses (even for the limited purpose of revocation), or make arrests without requiring them to be armed?

3. What is the *mission* of the department? The administrator who structures a mission statement that does not reflect the full intent of the legislature will not long enjoy his or her job. We cannot pick which parts of the law we like and ignore the rest. Nor can we choose to accept only the part of our responsibility that is easy and fun

4. How is the mission *accomplished*? Is the mission one which can be accomplished without field work? If so, our concerns are limited to safety in the office setting, which is just as important as, but different from, safety in the field.

Many elements go into making an office safe, the most important of which may be training. Staff who have never worked in a secure setting or had to consider personal safety sometimes put themselves at risk needlessly. Care must also be given to avoid creating unnecessary paranoia while helping staff understand that there is a very real risk to everyone working in community corrections.

Administrators should think carefully before deciding to limit or eliminate field work. Unless such activities are specifically limited by statute, community corrections work by both tradition and belief entails visiting offenders in their homes and at their jobs. It is extremely difficult to explain community corrections in any meaningful sense if the function is conducted solely in the office, which does not provide community protection or enhancement of community safety.

How does one defend a department against a lawsuit brought by the family of a citizen murdered by an offender, if there has been no supervision outside the office? Is the defense, "we were afraid," going to excuse us or buy us any consideration from a jury? Awards and settlements resulting from claims and lawsuits alleging inadequate supervision have been measured in the millions of dollars during the past decade, and we can rest assured that the number of torts will increase.

In one recent case, the settlement was in the millions. The defendant who raped and murdered three young women had been seen an average of six times per week in face-to-face contacts by the probation department. How much would the settlement or jury award have been if truly inadequate supervision had occurred? How do we defend if we are not doing field work?

5. What is the *continuum* of risk and force? Risks increase as officers move into the community. Risk assessment leads to the development of a continuum of force that describes the level of response appropriate for each level of risk, from the least dangerous to a life-threatening encounter. The officer's response is based on the calculated risk and the level of force required to escape or counter the risk.

In the continuum, the use of deadly force is reserved for extreme circumstances. Deadly force is justified only when an officer has reason to believe that he/she or someone else is in immediate threat of death or serious injury and the assailant has both the means and the opportunity. The use of a firearm is the appropriate response in a very small percentage of events. However, there is probably no other adequate instrument when a deadly attack occurs.

How Can We Reduce the Risk?

Policy and training should equip officers to recognize risk and avoid it. If risk cannot be totally avoided, then it may be lessened through a number of strategies:

- Do not go into high-risk areas. Require the probationer to meet you in a less-threatening environment.
- Do not go into high-risk neighborhoods during high-risk times. Make home inspections early in the morning if it is safer and the offender can be contacted at that time.
- Never believe they do not know who you are. Never assume you are safe even if you believe they do not know who you are. Thugs on the street may think you are a bill collector and are carrying lots of money. Strangers always are noticed, and you are the stranger.
- Never believe you know who is in the neighborhood. The person you meet on the street may be the brother or fellow gang member of someone you revoked. You cannot remember them all.
- Never believe they will not hurt you because they do know who you are. That is an egotistic and self-serving attitude, and it will get you hurt or killed.
- Work in pairs or teams. Two people are less likely to be attacked than one; in some cases, four people are even better.
- Do not make arrests without sufficient support. Never attempt an arrest alone. A show of force will often make resistance less likely. If you feel the need, call for the police, the sheriff or state police, or all the above. Let them take the lead. They are the experts, and they know how to handle dangerous situations better than we do. They would rather assist you than investigate your death.
- Always be alert. The most routine home visit can go sour in 1/10 of a second.

- Plan field work so that a number of officers or teams are in the same neighborhood at the same time. Agree on a meeting place when everyone has finished their work in the neighborhood and agree that no one will leave the area until everyone is accounted for.
- Look around before you stop, park, or leave your vehicle. If things do not look tight, leave. There is always another day. Listen to your gut. Instinct often tells us things we do not cognitively understand.
- Park only where it will be difficult for someone to block your car. Never pull into a driveway if the only way to exit is to back into the street.
- In addition to looking around before you park, look behind you. Be alert for someone following you. If you suspect you are being followed, drive around the block. It only takes a few minutes.
- If you are walking and realize you are being followed, radio for help and go where people are, if possible. Avoid any place where you could be cornered or trapped. Get to your car and leave, if possible.

Looking Ahead

Arming probation officers does not and must not change the mission or dictate the policy of the department. The issue is how to best accomplish our mission while effectively managing the issue of staff safety. It is an issue that can be managed; the risk can be reduced. The department can be effective in changing lives, and the firearm can become another tool of the modern probation officer.

Seek the counsel and advice of the law enforcement community. The police can be a source of training, and they are a source of good information about the danger in our communities. Why are some probation and parole administrators reluctant to talk to the chief of police and the sheriff? Perhaps the reluctance is evidence of a much larger problem.

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